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Introduction

The Saami — the indigenous people of Norway

1. As an indigenous people, the Saami have the right to special protection. They have lived in what is now Norwegian territory since long before the establishment of the Norwegian State.

General legislation relating to the Saami people

2. The Saami people were subject for many years to a harsh assimilation policy that put great pressures on the Saami culture and language. However, the Norwegian authorities' views on the Saami as an indigenous people have changed considerably during the past few decades. In 1980, a committee was appointed to study the legal rights of the Saami people, and it submitted its first report (Official Norwegian Report 1984:18, *Legal Rights of the Saami People*) in 1984. The proposals in this report resulted in a new statute, Act No. 56 of 12 June 1987, relating to the Saami people and the inclusion of a new article in the Constitution, article 110a, which was adopted on 27 May 1988. Article 110a of the Constitution establishes the responsibility of the authorities to create conditions that enable the Saami people to safeguard and develop their language, culture and way of life. The Saami Act lays down administrative and language provisions in order to ensure compliance with the Constitution. The Sámediggi (the Saami Parliament) was established in 1987, pursuant to the Saami Act, and inaugurated in 1989. The Sámediggi is a democratically elected body whose representatives are elected by and from among the Saami people.

General measures

Legislation against ethnic discrimination

3. On 3 March 2000, the Government appointed a legislative committee to prepare new legislation against ethnic discrimination, including discrimination based on religion and national or ethnic origin. The report was completed on 14 June 2002.

4. The committee's report has been published in a white paper (official Norwegian report 2002:12, *Legal Protection against Ethnic Discrimination*). The committee evaluated the existing legal protection in criminal and civil law and concluded that there was a need to strengthen legal protection against ethnic discrimination in Norway. The report provides information on the current state of ethnic discrimination in Norway and gives an account of Norway's international obligations in this field, the rules for protection against ethnic discrimination in the European Union and the existing legislation in certain other countries. The report proposes a new Act prohibiting ethnic discrimination in all areas of society with the exception of personal relations and family life, based on the following important principles:

(a) The Act should provide protection against both direct and indirect discrimination and discrimination on grounds of "ethnicity". A special provision prohibiting harassment on the basis of ethnicity should be included. The report also

proposes a special prohibition against incitement to discriminate or harass. In connection with the general prohibition against discrimination in civil law, the report proposes a special provision prohibiting any person from inciting discrimination or participating in discrimination in association with others;

(b) Affirmative action on behalf of certain ethnic groups or individuals in order to promote the objectives of the Act should not be regarded as discrimination;

(c) A provision should be included prohibiting reprisals against a person who has filed or intends to file a complaint about a violation of the Act. This prohibition should also apply to witnesses in cases regarding discrimination;

(d) As a general rule compensation should always be granted when individuals are affected by a violation of the Act, but in special cases exceptions may be made. If the discriminatory circumstances are of a lasting nature, it should be possible to issue an injunction to terminate or correct such circumstances, or to take other measures that are necessary in order to bring about compliance with the Act. It should also be possible to impose a coercive fine in order to ensure compliance with such an injunction;

(e) The required degree of fault should be changed from the general criminal law requirement of intent to "intent or gross negligence". The committee also proposed a certain extension of the scope of application of section 135 a of the Penal Code;

(f) Civil and criminal sanctions should be applied against the incitement of or participation in organized racist activities and other forms of collective acts of discrimination.

5. The report also discusses how the International Convention on the Elimination of All Forms of Racial Discrimination can be implemented in Norwegian law. It proposes incorporating the Convention by amending the Human Rights Act (Act No. 30 of 21 May 1999).

Competence Centre of Indigenous Peoples' Rights

6. In accordance with the National Plan of Action for Human Rights, the Government has established a Competence Centre of Indigenous Peoples' Rights in Kautokeino. The board of the Centre was appointed by the Ministry of Local Government and Regional Development and the Sámediggi in a joint decision in May 2002. The candidates for the board were proposed by the University of Tromsø, the Nordic Saami Institute, the Saami University College, the Institute of Human Rights, and the Saami Council. Members are appointed for a term of three years. The Centre was scheduled to start operating in autumn 2002.

7. The purpose of this Centre is to increase the general public's knowledge of indigenous peoples' rights in Norway. The Centre aims to create a professional network with other institutions dealing with indigenous issues, both in Norway and in other countries. Other important tasks include documenting the rights of indigenous peoples and disseminating information to organizations, institutions, lawyers, schools, etc. The Centre will also identify areas in which there is a need for research, but it is not meant to be a research institution.

Establishment of a new district court in the Saami language administrative district

8. The Saami and Norwegian languages have equal status within the Saami language administrative district, pursuant to the Saami Act. To enhance the Saami people's confidence in the courts, the Storting (the Norwegian parliament) has decided to establish a district court within the Saami language administrative district, in which the Saami and Norwegian languages will have equal status. The court is located in Deatnu-Tana municipality and became operative in January 2004.

New Act on land use and ownership in Finnmark county

9. In January 1997, the Saami Rights Committee submitted its second report on the Saami rights to land and natural resources in the county of Finnmark. The Government is following up the report, and intends to submit a proposition to the Odelsting (one of the chambers of the Storting) with the necessary draft legislative amendments. The Sámediggi and the Finnmark county council are being consulted in the process.

Appointment of a new Saami Rights Committee

10. In June 2001, a new Saami Rights Committee was appointed. Its mandate is to study the rights and management of land and natural resources in areas used by the Saami people outside Finnmark county. The Committee's report is to be submitted by 1 July 2005.

Information campaign about the Saami people and the Saami way of life

11. The Government intends to launch an information campaign about the Saami people and the Saami way of life. In this connection the Ministry of Local Government and Regional Development has engaged a project manager for two years to work on Saami language issues and information on Saami affairs.

12. In June 2002 the Ministry of Local Government and Regional Development, the Sámediggi and the Statskonsult (the Directorate of Public Management Development) submitted a report entitled "The New Saami". According to the report, one reason why only a small number of Saami have chosen to register themselves on the Saami electoral roll is the previous national assimilation policy.

13. The Government will review existing knowledge and previous research projects on the causes of negative attitudes towards the Saami, and how these attitudes can be counteracted. The Government will also consider initiating further research projects to explore these questions more thoroughly.

Saami People's Fund

14. On 16 June 2000, the Storting decided to establish a fund amounting to 75 million Norwegian kroner as collective compensation for the damage and injury

suffered by the Saami people during the years of discrimination and assimilation. The yield from the fund is to be spent on measures, to be decided by the Sámediggi, to strengthen the Saami language and culture. As the Sámediggi has imposed certain conditions that must be fulfilled before it approves the conditions for establishing the Fund, the statutes of the fund have not yet been finalized. The Government will respond to these conditions shortly.

Legal aid

15. The Legal Aid Office of Inner Finnmark in Karasjok was established in 1987 to safeguard the Saami people's particular needs in connection with legal aid. These are mainly connected with language difficulties and with the fact that there are few lawyers in Finnmark. The Office offers free legal aid to everyone in the district without regard to income or legal field.

Land Disputes Tribunal

16. The Land Disputes Tribunal was established by Act No. 51 of 7 June 1985, and is authorized to establish:

(a) Whether or not the State holds title to a land area;

(b) Boundaries between State-owned land and contiguous land areas;

(c) Whether rights of usufruct, including common-land rights, pertain or do not pertain to State-owned land areas and, if so, who enjoys rights of usufruct.

17. The Sámediggi has criticized the establishment of the Land Disputes Tribunal on the grounds that it is in principle inadvisable that the Tribunal should render legally binding judgements on rights with regard to State-owned land at the same time as the Saami Rights Committee is studying the legal position of the Saami with regard to land and water resources. The Sámediggi fears that in this situation insufficient importance will be attached to Saami usufruct and other rights under customary law as prescribed in ILO Convention No. 169. The Sámediggi has therefore requested that the activities of the Tribunal be suspended until the Committee has completed its work.

18. The Government's response has been that the task of the Saami Rights Committee is to review existing law in Saami settlement areas on a general basis. The Land Disputes Tribunal, on the other hand, only adjudicates in specific legal disputes pursuant to existing Norwegian law. It is therefore the Government's view that the activities of the Tribunal will not prevent the Committee from making a factual, impartial assessment.

Supreme Court Judgement of 2 October 2001 on the Svartskogen case

19. The case concerned a dispute as to whether Saami landowners and rights holders in Manndalen in Troms County had acquired the right of ownership through immemorial usage to an area measuring 116 square kilometres, known as

"Svartskogen", in the uppermost part of the valley. The area was purchased by the State in 1885.

20. The Supreme Court found that the Saami population of Manndalen had since the end of the 1800s been making use of the Svartskogen area in all ways possible with the exception of reindeer husbandry. The Court also found that the area had been used in good faith. The State had in the main been passive and had made little attempt to assert its right of ownership. Despite the fact that the Saami population had for the most part described their right as a right of use, this did not prevent them from acquiring the right of ownership. Importance was attached to the fact that the Saami people, with their collective use of resources, were not accustomed to viewing the right of ownership in the same way as the rest of the population.

21. The right of ownership to Svartskogen was awarded collectively to the Saami people of Manndalen on the basis of immemorial usage. The Supreme Court also pointed out that the decision was in close keeping with the provisions of ILO Convention No. 169, article 14, paragraph 1, first sentence, and with the considerations the said provisions were to safeguard.

Group of Experts appointed to draw up a draft Nordic Saami convention

22. At their annual joint meeting on 13 November 2002, the ministers of Saami affairs in Finland, Sweden and Norway and the presidents of the Saami parliaments in those countries decided on the composition of the expert group that is to draw up a Nordic Saami convention. The group has been tasked with drafting a Nordic Saami convention between Finland, Sweden and Norway.

23. The group is made up of two representatives from each of the countries, one of which is appointed by the respective Saami parliaments. It was to begin its work at the beginning of 2003, and the process was expected to take three years.

24. The group of experts is to draft a convention text based on the report on the need and basis for a Nordic Saami convention. As regards the question of substance, the group is to determine whether it is to be a framework convention or a convention that specifies the rights and obligations of the State and the Saami people in more detail.

25. Important topics that could be governed by a Saami convention include the status of the Saami people, the definition of "Saami", self-determination, cooperation between the Saami parliaments and the States, language, the environment, preservation of the cultural heritage, health, education and research, Saami means of livelihood, culture and children and youth.

26. The convention text is to be based both on the international instruments by which the respective States are bound and on customary law. The group of experts is also to consider whether there is a need for an appeals procedure to ensure that the Convention is complied with and a surveillance body. If the group finds that there is such a need, it will draft a proposal to this effect.

Reindeer husbandry

27. In national terms, reindeer husbandry is a small industry. However, it is of great importance for both preserving Saami cultural traditions and maintaining employment levels and a traditional lifestyle in some rural areas. Reindeer husbandry has always been considered a Saami industry, and is thus an important part of the material basis of Saami culture, especially in the Southern Saami area, which has a small and scattered Saami population.

28. The Reindeer Husbandry Act of 1978 regulates the industry. In addition, the Norwegian State is obligated to protect reindeer husbandry under Article 110a of the Constitution, ILO Convention No. 169 and the International Covenant on Civil and Political Rights (article 27), since this industry is an important part of the Saami culture and way of life.

29. It was found, however, that legal and administrative practice since 1978 had shown that the Reindeer Husbandry Act had not brought about the clarification of the industry's legal position that it was intended to do. The most important point in this connection was that the question of the geographical application of the Saami right to reindeer herding has not been settled satisfactorily. As a result the Act was amended in 1996. The Norwegian Supreme Court invoked this amendment for the first time in 2001 (in the Selbu case). In this case, the Supreme Court found that the landowners in question were unable to prove that the reindeer herders' use of the land did not suffice to make the area in question legal reindeer husbandry land. This court decision may have helped to reduce the threat to the legal basis of the Southern Saami reindeer husbandry industry. However, the land areas used for reindeer herding still need to be protected.

30. Planning and Building Act No. 77 of 14 June 1985 is currently being revised on the initiative of the Ministry of Agriculture with a view to considering the impact of rules in international law concerning the rights of indigenous people and minorities in connection with zoning and urban planning. The committee in question has been asked to focus on the International Covenant on Civil and Political Rights, article 27, and on ILO Convention No. 169, article 7, and in this context to consider the need for environmental impact analyses of new planned activities in Saami areas.

Revised reindeer husbandry legislation

31. In November 1998 the Ministry of Agriculture appointed a committee to revise the legislation governing reindeer husbandry. The committee submitted its recommendations in March 2001. It emphasized the importance of providing to reindeer owners more predictable conditions and legal safeguards and proposed provisions setting out the rights and duties of reindeer owners more clearly. The committee also referred to reindeer husbandry's dependence on biological resources, and stressed that grazing must be sustainable in a long-term perspective. The committee's recommendations will be circulated for comment to a broad range of bodies.

Culture

32. Various measures have been implemented by the Government to promote and/or provide facilities for cultural activities for the Saami people.

33. In the 2002 fiscal budget, the Ministry of Culture and Church Affairs transferred the administration of the Ministry's various grant schemes for Saami cultural purposes to the Sámediggi.

Language

34. There are four major Saami languages spoken and written in Norway, some of which are very different from the others. The majority of the Saami population speaks Northern Saami. The two minority languages, Southern Saami and Lule Saami, are shared with the Saami population living in the neighbouring Swedish areas. The Eastern Saami language has almost disappeared in Norway, but is still in use in neighbouring areas in Finland and the Russian Federation.

35. Estimating the number of speakers of Saami is difficult. According to a report published by the Saami Language Council in October 2000, the estimated number of people speaking Saami languages in Norway is 25,000. The report further estimates that 53 per cent of these people are able to read and write Saami.

36. The Norwegian Constitution states in Article 110a that "It is the responsibility of the authorities of the State to create conditions enabling the Saami people to preserve and develop its language, culture and way of life". This article was adopted by the Storting in 1988, and a couple of years later a new chapter concerning language was added to the Saami Act. These provisions are intended to promote the Saami language with a view to safeguarding both the Saami language and the culture.

37. The Saami Act recognizes that Saami and Norwegian are languages of equal worth (sect. 1-5). Most of the provisions of chapter 3 in the Saami Act apply to the Saami language administrative district, which consists of the following six municipalities: Deatnu-Tana, Gaivuotna-Kåfjord, Guovdageaidnu-Kautokeino, Karasjohka-Karasjok, Porsanger and Unjarga-Nesseby.

38. Section 3-2 of the Saami Act provides that legislation of particular interest to all or parts of the Saami population is to be translated into Saami. Furthermore, section 3-3 provides that any person who contacts a local public body in the Saami language administrative district has the right to receive a reply in Saami. The Saami Act also guarantees an extended right to use Saami in the legal system and in the health and welfare sectors. In addition, section 3-8 provides that any person has the right to be taught in Saami.

39. Section 3, second paragraph, of the Act relating to place names provides that Saami and Finnish names normally used by the local population are to be used by the public authorities on maps and signs and in registers, etc. Moreover, section 4, first paragraph, provides that the spelling of the place name must be based on the traditional local pronunciation of the name. In accordance with this, maps with Kven/Finnish and Saami place names have been published and road signs with Kven/Finnish and Saami place names have been put up in parts of northern Norway.

40. Several of these national legal rights and obligations correspond to rights and obligations in international charters and conventions relating to indigenous peoples signed by Norway, for example the European Charter for Regional or Minority Languages.

Museums

41. The Ministry of Culture and Church Affairs provides funding for De Samiske Samlinger, which is a national Saami museum situated in Karasjok in northern Norway. In addition several local Saami museums in other municipalities receive financial support from both the Ministry of Culture and Church Affairs and the regional and local authorities.

Library services

42. Samisk spesialbibliotek is the central Saami library service, and is situated in Karasjok. Since 1983, the Ministry of Culture and Church Affairs has provided full funding for this library. Some other local libraries also have Saami literature in their collections.

43. Since 1993 the National Library has been assigned the responsibility for compiling the Saami bibliography. In addition to material in Saami, the bibliography includes material in other languages relating to all fields and subjects with relevance to the Saami people. The aim is to establish a joint Nordic bibliography. The Saami bibliography has been published on three occasions, and is available electronically. Information may be found on the National Library's web site: www.nb.no/baser/samisk.

44. The Ministry of Culture and Church Affairs has established a mobile library service. This scheme is intended to help increase the population's knowledge of Saami in the northern part of Norway where few people have access to ordinary libraries because of the large distances.

Archives

45. Samisk Arkiv (the Saami Archive) is a private foundation, but it receives financial support from the Ministry of Culture and Church Affairs. This archive's main objective is to collect and make available data documenting the Saami language and culture.

Theatre and music

46. Beivvás Sámi Teáhter has received State support since 1987. The group only performs plays in the Saami language, and therefore plays an important role in the development of Saami drama. The theatre is situated in Kautokeino in Finnmark county, but often tours other parts of northern Norway, Sweden and Finland.

47. Several Saami music festivals received financial support from the Ministry of Culture and Church Affairs in 2002.

48. The Ministry of Culture and Church Affairs has established a grant scheme for Norwegian artists. According to the regulations governing the scheme, a certain number of these grants are intended for Saami artists.

Press

49. In 1978, a State subsidy scheme for Saami newspapers was established. In 2002, the subsidies amounted to a total of NKr 11 million.

50. According to the present rules, subsidies are allocated to newspapers that target the Saami population in Norway. The subsidy is calculated on the basis of the annual number of editions and pages produced, with different rates for pages produced in Norwegian and Saami respectively. This is done partly because of the extra cost of producing Saami texts. The subsidy scheme is administered by the Mass Media Authority, an agency subordinate to the Ministry of Culture and Church Affairs.

51. In 2002 three newspapers received subsidies: the Saami language newspapers *Min Aigi* and *Assu*, and the Norwegian language newspaper *Ságat*. In addition, the religious magazine *Nuorttanaste* received about NKr 250,000.

Broadcasting

52. The Norwegian Broadcasting Corporation (NRK) is a licence-financed, State-owned public service broadcasting institution. The Corporation recognizes its vital role in the national and Nordic efforts to safeguard and develop Saami society, including the Saami language. From its 2001 report (in Norwegian), we quote:

> "Sámi Radio is a separate division of NRK, and is located in Karasjok. The head of the Sámi Radio division is part of the central administration of NRK.
>
> "Sámi Radio produced a total of 1,684 hours of radio in 2001, of which 1,429 hours were regional broadcasts, 167 hours were national broadcasts on P2 and 24 were national broadcasts on P1. The digital radio channel of Sámi Radio broadcast for 2,517 hours in 2001.
>
> "NRK has separate broadcasts in Saami on the NRK P2 network north of Salten: from 7 a.m. to 9 a.m. and from 2 p.m. to 5.30 p.m. on weekdays, and from 6 p.m. to 7 p.m. on Saturdays and Sundays. The same broadcasts may also be heard in Oslo on a separate frequency (90.1). On a national basis Saami broadcasts had an average of 15,000 listeners in 2001.
>
> "Sámi Radio produced a total of 58 hours of television in 2001, including news, children's programmes and a series about the history of the Saami people.
>
> "*Oddasat*, a 10-minute [television] news broadcast in Saami at 5 p.m. on NRK1, was seen by an average of 53,000 viewers. The broadcast of the elections for the Sámediggi had up to 61,000 viewers. Children's television in Saami, *Manaid-TV*, shown from 10 a.m. on Sunday mornings, had up to 100,000 viewers.

"On 20 August 2001 Sámi Radio, in cooperation with Swedish Sámi Radio, established a Saami television news broadcast. For the first time the Saami population in Norway and Sweden now have their own news programme on television."

53. The Nordic Sámi radios have joined forces to establish Saami Web. It was opened in connection with the meeting of Nordic cultural ministers in Copenhagen on 5 March 1999. The purpose of Saami Web is primarily to make news and cultural matters available on the Internet.

54. There are also a small number of private Saami local radio channels in Norway, mainly privately financed. Local radios offering broadcasts in Saami may, however, receive support from the Mass Media Authority. The Authority's guidelines stipulate that, when allocating funds to local radio programmes, particular consideration is to be given to applications from ethnic and linguistic minorities.

Film

55. Nordnorsk Filmsenter AS is a regional institution that grants support for the development and production of short films and videos in northern Norway. The centre receives funds from the Ministry of Culture and Church Affairs, and one of the conditions for government funding is that at least one Saami film a year must be produced with support from the centre.

56. The Norwegian Film Institute also has a project entitled "Saami language in film", which has received support in the amount of about NKr 250,000 annually. The support covers subtitling of films, videos, dubbing children's films into Saami, commercial video distribution of Saami texts and launching of Saami film projects. A separate catalogue of the films supported under the project has been published and distributed in Saami-speaking areas.

Health and social services

57. The Saami population has the same access to health care and social services as the rest of the population. There are still certain problems, however, as regards language and cross-cultural communication in this field. The right to communicate in Saami within a specific geographical area also applies to health and social services. Furthermore, the Patients' Rights Act and the Health Personnel Act both emphasize that health personnel and administrative leaders are responsible for removing communication barriers between patients and personnel. For this reason interpretation services and greater competence in the Saami language may be necessary outside the Saami language area as well.

58. In 2001, the Government adopted a plan of action for health and social services for the Saami population. Among the measures in the plan is the establishment of the Centre for Saami Health Research in Karasjok, under the auspices of the University of Tromsø. A survey on health and living conditions is also currently being planned. Since 1 January 2002, hospitals and other specialized health services, which had previously been under county ownership, have been owned by the State. These services are now administered by five different regional

authorities, two of which have a Saami member. These regional health authorities are responsible for ensuring that patients and other users have an opportunity to influence the planning and running of the specialized health services. This means that the health authorities must take the needs of ethnic groups into consideration. They must ensure that organizations representing the Saami population, other national minorities and immigrants in the region concerned are given the opportunity to voice their opinion. It is hoped that the reform will be a useful tool for implementing the policies in the above plan of action.

59. There are already extensive plans for building up mental health-care services for the Saami population as part of the ordinary health service. The Government has a close dialogue with the Sámediggi on health and social issues.